

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 3
DOCKET NO.: 2007-0061-MWD-E **TCEQ ID:** RN102844776 **CASE NO.:** 32167
RESPONDENT NAME: Harris County Municipal Utility District No. 358

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Fairfield Village Regional Wastewater Treatment Plant, located approximately 1,500 feet north of U.S. Highway 290 and 2,700 feet west of Mueschke Road, Harris County</p> <p>TYPE OF OPERATION: Wastewater treatment facility</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on October 15, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Catherine Albrecht, Enforcement Division, Enforcement Team 1, MC R-12, (713) 767-3672; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Don Garrett, President, Harris County Municipal Utility District No. 358, 3200 Southwest Freeway, Suite 2600, Houston, Texas 77027 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

DOCKET NO.: 2007-0061-MWD-E

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Record Review Relating to this Case: November 7, 2006</p> <p>Date of NOE Relating to this Case: December 5, 2006 (NOE)</p> <p>Background Facts: This was a routine record review for compliance with the water quality program. One significant program violation was observed.</p> <p>WATER</p> <p>Failure to comply with permitted limits for total copper [30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 13296002, Interim II Effluent Limitations and Monitoring Requirements No. 1, and TEX. WATER CODE § 26.121(a)].</p>	<p>Total Assessed: \$2,900</p> <p>Total Deferred: \$580 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$2,320</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>1) The Executive Director recognizes that the District prepared and submitted to the TCEQ by January 4, 2007, a plan for conducting a Water Effects Ratio ("WERS") Study for total copper.</p> <p>Ordering Provisions:</p> <p>2) The Order will require the Respondent to:</p> <p>a) Within 60 days after the effective date of this Agreed Order, complete and submit to the TCEQ for approval the results of the WERS to determine if the total copper limits established for TPDES Permit No. 13296002 are higher than necessary to protect aquatic life in the receiving stream;</p> <p>b) Within 120 days after the effective date of this Agreed Order:</p> <p>i. Prepare and submit a major permit amendment for an increase in the total copper permit limits if the WERS results are approved and indicate such a request is warranted; or</p> <p>ii. Complete all necessary corrective actions to ensure compliance with the total copper limits of the existing permit issued on June 11, 2003.</p> <p>c) If a major permit amendment application is submitted, respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests or by any deadline specified in writing;</p> <p>d) Within 180 days after the effective date of this Agreed Order:</p> <p>i. Submit written certification of compliance with Ordering Provision Nos. 2.a., 2.b.i., and 2.c., as described in</p>

		<p>Ordering Provision No. 2.e. below; or</p> <p>ii. Submit written certification of compliance with the existing TPDES Permit No. 13296002 total copper effluent limits, as described in Ordering Provision 2.e. below.</p> <p>e) If a major permit amendment application is submitted, then within 300 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with TPDES Permit No. 13296002 total copper effluent limits. The certification shall be notarized by a State of Texas Notary Public.</p>
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Additional ID No(s).: 13296-002



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision December 8, 2006

TCEQ

DATES	Assigned	11-Dec-2006	Screening	10-Jan-2007	EPA Due	4-Aug-2007
	PCW	26-Mar-2007				

RESPONDENT/FACILITY INFORMATION

Respondent	Harris County Municipal Utility District No. 358		
Reg. Ent. Ref. No.	RN102844776		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	32167	No. of Violations	1
Docket No.	2007-0061-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Catherine Albrecht
Multi-Media		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$2,500

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 16% Enhancement **Subtotals 2, 3, & 7** \$400

Notes

The Respondent has three NOV's for other violations and two self-reported effluent violations.

Culpability

No

0% Enhancement

Subtotal 4 \$0

Notes

Respondent does not meet the culpability criteria.

Good Faith Effort to Comply

0% Reduction

Subtotal 5 \$0

Before NOV NOV to EDRP/Settlement Offer

Extraordinary

Ordinary

N/A

X

(mark with x)

Notes

The Respondent does not meet the good faith criteria.

0% Enhancement*

Subtotal 6 \$0

Total EB Amounts \$1,880
Approx. Cost of Compliance \$25,000

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7

Final Subtotal \$2,900

OTHER FACTORS AS JUSTICE MAY REQUIRE

Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount \$2,900

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$2,900

DEFERRAL

20%

Reduction

Adjustment -\$580

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

\$2,320

Screening Date 10-Jan-2007

Docket No. 2007-0061-MWD-E

PCW

Respondent Harris County Municipal Utility District No. 358

Policy Revision 2 (September 2002)

Case ID No. 32167

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102844776

Media [Statute] Water Quality

Enf. Coordinator Catherine Albrecht

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	2	10%
	Other written NOVs	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 16%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

The Respondent has three NOVs for other violations and two self-reported effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 16%

Screening Date 10-Jan-2007

Docket No. 2007-0061-MWD-E

PCW

Respondent Harris County Municipal Utility District No. 358

Policy Revision 2 (September 2002)

Case ID No. 32167

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102844776

Media [Statute] Water Quality

Enf. Coordinator Catherine Albrecht

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 13296002, Interim II Effluent Limitations and Monitoring Requirements No. 1, and Tex. Water Code § 26.121(a)

Violation Description Failed to comply with permitted limits for total copper. See attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

A simplified model was used to evaluate total copper to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

62 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,500

One quarterly event is recommended for July and August 2006.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,880

Violation Final Penalty Total \$2,900

This violation Final Assessed Penalty (adjusted for limits) \$2,900

Economic Benefit Worksheet

Respondent Harris County Municipal Utility District No. 358
 Case ID No. 32167
 Reg. Ent. Reference No. RN102844776
 Media Water Quality
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs	\$25,000	1-Jul-2006	1-Jan-2008	1.5	\$1,880	n/a	\$1,880
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs of conducting a Water Effects Ratio Study for total copper and to submit a major permit amendment application and obtain a new permit to increase the total copper limits. Date required is the date of first violation month. Final date is the projected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$25,000

TOTAL

\$1,880

Respondent: Harris County Municipal Utility District No. 358
ID Number: RN102844776
Docket Number: 2007-0061-MWD-E
Enf. Coordinator: Catherine Albrecht

Corresponds to Violation Number: 1

OUTFALL 001 EFFLUENT PARAMETERS

Month/Year	Total Copper Daily Average Limit of 0.018 mg/L	Total Copper Daily Maximum Limit of 0.038 mg/L	Total Copper Daily Average Limit of 0.15 lbs/day
Jul-06	0.024 mg/L	c	0.16 lbs/day
Aug-06	0.028 mg/L	0.040 mg/L	0.17 lbs/day

Abbreviations: milligrams per liter (mg/L); pounds per day ("lbs/day"); and compliant ("c")

Compliance History

Customer/Respondent/Owner-Operator: CN600736219 Harris County Municipal Utility District 358 Classification: AVERAGE Rating: 2.43

Regulated Entity: RN102844776 FAIRFIELD VILLAGE REGIONAL WASTEWATER TREATMENT PLANT Classification: AVERAGE Site Rating: 0.14

ID Number(s): WASTEWATER PERMIT WQ0013296002
WASTEWATER PERMIT TPDES0105376
WASTEWATER LICENSING LICENSE WQ0013296002

Location: Located about 1500 ft north of US Hwy 290 and 2700 ft west of Mueschke Rd. in Harris County TX Rating Date: September 01 06
Repeat Violator: NO

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: December 21, 2006

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: December 21, 2001 to December 21, 2006

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Catherine Albrecht Phone: (713)767-3672

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 01/21/2003 (224117)
2 01/22/2002 (224116)
3 12/20/2002 (224115)
4 11/20/2002 (224113)
5 10/18/2002 (224111)
6 09/20/2002 (224109)
7 08/23/2002 (224107)
8 07/21/2003 (224105)
9 07/22/2002 (224104)
10 06/23/2003 (224102)
11 04/20/2006 (505241)
12 08/29/2002 (224101)
13 05/24/2006 (505242)
14 06/20/2006 (505243)
15 05/20/2003 (224099)
16 05/21/2002 (224098)
17 04/18/2003 (224096)
18 11/20/2003 (333134)
19 04/23/2002 (224095)
20 03/21/2003 (224093)
21 03/21/2002 (224092)
22 02/20/2003 (224090)
23 02/21/2002 (224089)
24 08/13/2004 (285647)
25 06/29/2006 (463728)
26 08/22/2005 (446665)
27 09/21/2005 (446666)
28 12/06/2006 (518743)
29 10/06/2006 (531058)
30 04/20/2005 (426342)

31 05/19/2005 (426343)
 32 06/21/2005 (426344)
 33 04/20/2005 (426345)
 34 02/20/2004 (323062)
 35 04/20/2005 (426346)
 36 03/19/2004 (323063)
 37 04/20/2004 (323064)
 38 02/21/2005 (388766)
 39 05/20/2004 (323065)
 40 03/21/2005 (388767)
 41 06/21/2004 (323066)
 42 12/20/2004 (388768)
 43 06/18/2004 (323067)
 44 08/20/2003 (323068)
 45 09/19/2003 (323069)
 46 10/17/2003 (323070)
 47 11/20/2003 (323071)
 48 12/22/2003 (323072)
 49 01/20/2004 (323073)
 50 08/27/2004 (364446)
 51 09/20/2004 (364447)
 52 02/21/2006 (479520)
 53 10/22/2004 (364448)
 54 03/20/2006 (479521)
 55 11/22/2004 (364449)
 56 10/20/2005 (479522)
 57 07/06/2004 (364450)
 58 11/17/2005 (479523)
 59 12/20/2005 (479524)
 60 09/29/2006 (527522)
 61 08/21/2006 (527523)
 62 09/29/2006 (527524)
 63 02/12/2002 (247554)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 11/20/2003 (333134)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(17)
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE

 Date: 10/06/2006 (531058)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(17)
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE

 Date: 07/31/2006 (527523)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter

 Date: 08/31/2006 (527524)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter

 Date: 02/12/2002 (247554)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.
N/A

Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
HARRIS COUNTY MUNICIPAL
UTILITY DISTRICT NO. 358
RN102844776**

§
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§
§

**BEFORE THE

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-0061-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Harris County Municipal Utility District No. 358 ("the District") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the District appear before the Commission and together stipulate that:

1. The District owns and operates a wastewater treatment facility located approximately 1,500 feet north of U.S. Highway 290 and 2,700 feet west of Mueschke Road in Harris County, Texas (the "Facility").
2. The District has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. The Commission and the District agree that the Commission has jurisdiction to enter this Agreed Order, and that the District is subject to the Commission's jurisdiction.
4. The District received notice of the violations alleged in Section II ("Allegations") on or about December 10, 2006.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the District of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Two Thousand Nine Hundred Dollars (\$2,900) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The District has paid Two Thousand Three Hundred Twenty Dollars (\$2,320) of the administrative penalty and Five Hundred Eighty Dollars (\$580) is deferred contingent upon the District's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the District fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the District to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the District have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the District prepared and submitted to the TCEQ by January 4, 2007 a plan for conducting a Water Effects Ratio Study ("WERS") for total copper.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the District has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the District is alleged to have failed to comply with permitted limits for total copper, as listed below, in violation of 30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 13296002, Interim II Effluent Limitations and Monitoring Requirements No. 1, and TEX. WATER CODE § 26.121(a), as documented during a record review conducted on November 7, 2006.

Month/Year	Total Copper Daily Average Limit of 0.018 mg/L	Total Copper Daily Maximum Limit of 0.038 mg/L	Total Copper Daily Average Limit of 0.15 lbs/day
Jul-06	0.024 mg/L	c	0.16 lbs/day
Aug-06	0.028 mg/L	0.040 mg/L	0.17 lbs/day

III. DENIALS

The District generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the District pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the District's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Harris County Municipal Utility District No. 358, Docket No. 2007-0061-MWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. It is further ordered that the District shall undertake the following technical requirements:
 - a. Within 60 days after the effective date of this Agreed Order, complete and submit to the TCEQ for approval the results of the WERS to determine if the total copper limits established for TPDES Permit No. 13296002 are higher than necessary to protect aquatic life in the receiving stream.
 - b. Within 120 days after the effective date of this Agreed Order:
 - i. Prepare and submit a major permit amendment for an increase in the total copper permit limits if the WERS results are approved and indicate such a request is warranted; or
 - ii. Complete all necessary corrective actions to ensure compliance with the total copper limits of the existing permit issued on June 11, 2003.
 - c. If a major permit amendment application is submitted, respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests or by any deadline specified in writing.
 - d. Within 180 days after the effective date of this Agreed Order:
 - i. Submit written certification of compliance with Ordering Provision Nos. 2.a., 2.b.i., and 2.c., as described in Ordering Provision No. 2.e. below; or
 - ii. Submit written certification of compliance with the existing TPDES Permit No. 13296002 total copper effluent limits, as described in Ordering Provision 2.e. below.

- e. If a major permit amendment application is submitted, then within 300 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with TPDES Permit No. 13296002 total copper effluent limits. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon the District. the District is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the District fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the District's failure to comply is not a violation of this Agreed Order. the District shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. the District shall notify the Executive Director within seven days after the District becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the District shall be made in writing to the Executive Director. Extensions are not effective until the District receives written

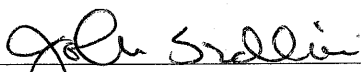
approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against the District in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the District, or three days after the date on which the Commission mails notice of the Order to the District, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

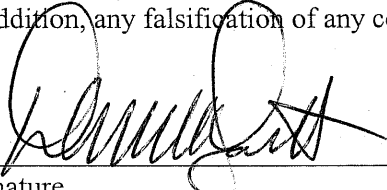
Date 10/18/07

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions; if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me;
- and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

Date

April 2, 2007

Don Garrett

Name (Printed or typed)

Title

President

Authorized Representative of

Harris County Municipal Utility District No. 358

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

